

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ISAAC W. CAPPS,)
Plaintiff,)
vs.)
KEVIN DRAKE, JARED FREEMAN, SHAWN) Case No. 14-441-MJR
ISAACS, JAMES TROGOLO, KEVIN ROYE,)
and BRICE SHAFFER) (Jury Demand)
Defendants.)

COMPLAINT

Plaintiff, by counsel, alleges as follows:

1. This is a civil action arising under the Fourth Amendment to the United States Constitution and 42 U.S.C. §§ 1983 and 1988. The Court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 1331 and 1333(a)(3).
2. This judicial district is an appropriate venue under 28 U.S.C. § 1331(b) as the events giving rise to the suit occurred in this judicial district, in Franklin County.
3. The Plaintiff, ISAAC W. CAPPS is a resident of the Southern District of Illinois; all Defendants are employed by law enforcement departments located within the Southern District of Illinois.
4. Defendants, KEVIN DRAKE, JARED FREEMAN and SHAWN ISAACS were, at all times relevant hereto, Illinois State Police Officers, acting under color of state law and they are each sued in their individual capacities.
5. Defendants, KEVIN ROYE and BRICE SHAFFER were, at all times relevant hereto, Franklin County Deputy Sheriffs, acting under color of state law and they are

each sued in their individual capacities.

6. Defendant, JAMES TROGOLO was, at all times relevant hereto, a West Frankfort Police Officer, acting under color of state law and he is sued in his individual capacity.

7. On April 17, 2012, Plaintiff was arrested for a suspected DUI offense at the Days Inn parking lot in West City, Franklin County, Illinois.

8. At that time, Defendant KEVIN DRAKE requested Plaintiff to submit to a portable breath test and Plaintiff refused the breath test.

9. When Plaintiff refused to submit to the portable breath test, Defendants KEVIN DRAKE, JARED FREEMAN, SHAWN ISAACS, JAMES TROGOLO, KEVIN ROYE, BRICE SHAFFER and other police officers whose names are presently unknown to Plaintiff, acting individually and/or in concert with each other, used unreasonable, unnecessary and excessive force against Plaintiff, causing him to receive personal injuries or, in the alternative, stood by and failed or refused to intervene to come to Plaintiff's aid and assistance and stop the unreasonable, unnecessary and excessive force being used against the Plaintiff by the other Defendants.

10. In unreasonably and excessively attacking Plaintiff as alleged, Defendants KEVIN DRAKE, JARED FREEMAN, SHAWN ISAACS, JAMES TROGOLO, KEVIN ROYE, BRICE SHAFFER and other officers deprived Plaintiff of rights secured by the Fourth Amendment to the Constitution of the United States.

11. As a direct and proximate result of the Defendants' wrongful conduct, as alleged herein, Plaintiff, ISAAC W. CAPPS, suffered injury and damage.

12. Plaintiff hereby demands trial by jury.

WHEREFORE, Plaintiff prays for judgment against the Defendants in an amount as a jury shall determine to compensate plaintiff and for punitive damages, for attorney's fees, costs of suit, and such other and further relief as this Court deems just.

RESPECTFULLY SUBMITTED,
ISAAC W. CAPPS

JUDE MARIE REDWOOD
/s/ J.M. Redwood

April 15, 2014

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